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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,937	05/09/2001	Julien Tan Nguyen	139.1002.02	7225

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EXAMINER	
CHEA, PHILIP J	

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/853,937	NGUYEN, JULIEN TAN	
	Examiner	Art Unit	
	Philip J. Chea	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-8,25-29 and 41-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-8,25-29 and 41-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 August 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to a Request for Continued Examination filed July 24, 2006. Claims 4-8,25-29,41-44 are currently pending. Any rejection not set forth below has been overcome by the current Amendment.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 4-8, 25-29, 41,43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,377,978. Please see the claim mapping below where bold indicates the differences between the US Patent 6,377,978 and the instant application.

Patent US 6,377,978	Instant Application 09/853937
1. A method for presenting electronic mail	4. A method for presenting electronic mail

messages to an operator, including the steps of loading a plurality of headers from a mail server, each one of said headers associated with an electronic mail message addressed to at least said operator, each of said plurality of headers loaded separately from its associated electronic mail message;	messages to an operator, including the steps of loading a plurality of headers from a mail server, each one of said headers associated with an electronic mail message addressed to at least said operator, each of said plurality of headers loaded separately from its associated electronic mail message;
receiving a dynamic selection of a first one of said electronic mail messages from said operator after at least one of said plurality of headers have been loaded and prior to said associated electronic mail message being loaded;	receiving a dynamic selection of a first one of said electronic mail messages from said operator after at least one of said plurality of headers have been loaded and prior to said associated electronic mail message being loaded;
presenting said first electronic mail message to said operator;	presenting said first electronic mail message to said operator; without interrupting presentation of said first electronic mail message;
identifying a second one of said electronic mail messages for preloading; and preloading said electronic mail message for later presentation, without interrupting presentation of said first electronic mail message;	identifying a second one of said electronic mail messages for preloading, **wherein said identifying is not in response to a dynamic selection of said second one of said electronic mail messages from said operator**; and preloading said second electronic mail message for later presentation; and
wherein said step of identifying said second electronic mail message for preloading is responsive to a preference designated by said operator.	**presenting to said operator a status of said step of preloading said second electronic mail message.**

Although the system disclosed by US Patent 6,377,978 shows substantial features of the claimed invention (discussed above), it fails to disclose that the identifying is not in response to a dynamic selection of said second one of said electronic mail messages from said operator and presenting to said operator a status of said step of preloading said electronic mail message.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by U.S. Patent No. 6,377,978.

At the time of the invention, a person skilled in the art would have readily recognized the advantage of preloading the second message without having the operator dynamically select the second message. That way, the first message can be read by the operator while the second message loads in the background without the operator being distracted by having to dynamically select messages to preload. A progress indicator would have also been an obvious modification in order to allow the operator to read the second message once it is done preloading. This feature is similar to reading email while a webpage is downloading in the background. As the operator is reading the email, the operator may glance over at the status bar and check if the page has completely loaded. Using progress bars to indicated loading status and applying the concept of multitasking is old and well known. Therefore, it would have been an obvious modification to the system of U.S. Patent No. 6,377,978.

Claims 25, 41, and 43 are of similar scope and are rejected for the same reasons as above. In considering that displaying the progress indication does not interrupt presentation of said first electronic message, it has been discussed above that multitasking is old and well known. Further, U.S. Patent No. 6,377,978 discloses preloading without interrupting presentation. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognized the advantages of allowing the progress indicator to still work without interrupting presentation in order to let the operator continue reading email without having to completely stop all tasks so a progress indicator can work.

As per claims 5 and 26, displaying a partial preview of said second electronic mail message; and altering said partial preview in response to a change in status of said step of preloading said second electronic mail message would have been obvious to one of ordinary skill in the art at the time of the

invention. It is old and well known that when web pages load they show a partial preview and once more of the page loads, the partial preview changes. Compare this feature to having two web mail pages open side by side where one is fully loaded and the other is loading in the background. A person of ordinary skill in the art would have readily recognized the advantage of showing a partial preview of a second message in order to easily glance over at the preview and check the progress of its loading

As per claims 6 and 27, displaying a preview of second electronic message in a distinct format would have been obvious to one of ordinary skill in the art at the time of the invention. It is old and well known that a distinct format can be used to display web based applications. A person of ordinary skill in the art would have readily recognized the advantage of showing a preview of a second message in a distinct format in order to easily allow the operator to glance over at the preview while reading the first message.

As per claims 7 and 28, status including the step of displaying at least one graphic element would have been obvious to one of ordinary skill in the art at the time of the invention. It is old and well known that a status bar can be used to show the progress of a web page loading. A person of ordinary skill in the art would have readily recognized the advantage of showing a graphic element such as a status bar in order to easily determine if the second electronic mail message has finished preloading.

As per claims 8 and 29, status including displaying text would have been obvious to a one or ordinary skill in the art at the time of the invention. It is old and well known that a web browser can show the status in the form a certain percent completed out of 100. A person of ordinary skill in the art would have readily recognized the advantage of showing the status as text in order to easily determine if the second electronic mail message has finished preloading.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998)

(affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)." ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United Sates Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 7:00-4:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Philip J Chea
Examiner
Art Unit 2153

PJC 11/8/06

KRISNA LIM
PRIMARY EXAMINER